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DEPARTMENT OF EDUCATION

34 CFR Chapter II

[CFDA Number 84.144F]

Final Requirement--Migrant Education Program Consortium

Incentive Grant Program

AGENCY: Office of Elementary and Secondary Education,
Department of Education.

ACTION: Final requirement.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education announces a final requirement under the Migrant Education Program (MEP) Consortium Incentive Grant (CIG) Program. This final requirement changes the maximum project period of grants awarded to State educational agencies (SEAs) under the MEP CIG program from two years to three years. We take this action to allow participating SEAs, where appropriate, to have an additional year to conduct needed activities, evaluate their projects, and provide a final report addressing their success in completing project activities and achieving the objectives and outcomes that were established in their approved CIG program application.

EFFECTIVE DATE: This requirement is effective [INSERT DATE]

30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Lisa Gillette, U.S.

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If you use a telecommunications device for the deaf
(TDD) or a text telephone (TTY), call the Federal Relay
Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The MEP, authorized in title I, part
C, section 1301 *et seq.* of the Elementary and Secondary
Education Act of 1965, as amended (ESEA) (20 U.S.C. 6391 *et
seq.*), is a State-operated and State-administered formula
grant program. The MEP helps SEAs support high-quality and
comprehensive educational programs that do two things:
provide migratory children with appropriate educational and
supportive services that address their special needs in a
coordinated and efficient manner, and give migratory
children the opportunity to meet the same challenging State
academic content and student academic achievement standards
that all children are expected to meet.

One component of the MEP is the CIG program,
authorized in section 1308(d) of the ESEA (20 U.S.C.
6398(d)). Through the MEP CIG program, the Department

provides financial incentives to SEAs to participate in high-quality consortia that improve the interstate or intrastate coordination of migrant education programs by addressing key needs of migratory children who have their education interrupted.

Program Authority: 20 U.S.C. 6398.

Applicable Program Regulations: 34 CFR part 200, subpart C.

We published a notice of proposed requirement for this program in the Federal Register on July 3, 2013 (78 FR 40084). That notice contained background information and our reasons for proposing the particular requirement.

Except for one minor technical revision, there are no differences between the proposed requirement and this final requirement.

Public Comment: In response to our invitation in the notice of proposed requirement, the Department received one comment.

Analysis of Comments and Changes:

Comment:__The one comment supported the proposed requirement because the additional year will allow time for projects to mature and will also provide time to disseminate successful and promising practices, as well as share lessons learned.

Changes: None.

FINAL REQUIREMENT--DURATION OF INCENTIVE GRANTS:

The Secretary may provide a maximum project period of three years for grants awarded under the MEP CIG program. The Secretary may extend the current two-year project period of the FY 2012 grantees to three years as well as determine a project period for future competitions of up to three years.

For grants with a three-year project period, grantees must submit a performance report at the end of each project year and are eligible for a continuation award at the end of the first and second project years based on the two-tiered funding formula in the 2004 Notice of Final Requirements published in the Federal Register on March 3, 2004 (69 FR 10110). The second and third year's continuation funding is contingent on the grantee making substantial progress in performing the previous year's consortium activities and in attaining the outcomes identified in the approved consortium application. Grantees must submit their final summary evaluation report at the end of the third project year.

Note: This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable

rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this requirement, we invite applications through a notice in the Federal Register.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentive--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this final requirement only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we

selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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Dated: December 26, 2013

Deborah S. Delisle,
Assistant Secretary for Elementary
and Secondary Education.

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